

HONORABLE EDWARD F. SHEA

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JEFFREY M. HARVEY, a married
person,

Plaintiff,

vs.

CITY OF SPOKANE, a municipal
corporation in and for the State of
Washington; and ANNE KIRKPATRICK,
a single person,

Defendants.

NO. CV-12-104-EFS

~~PROPOSED~~
AGREED PROTECTIVE ORDER

This matter having come before the Court on the stipulation of plaintiff
and defendants for a protective order relating to matters of discovery in the
above case, and the Court being fully advised, now, therefore,

IT IS HEREBY ORDERED that from the date of this Order all parties and
attorneys shall abide by the following conditions relating to documents
between the parties in this case:

AGREED PROTECTIVE ORDER - 1

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1 A. The term "confidential material" as used herein, shall mean the
2 following listed material, and shall include that portion of any responses to
3 Interrogatories of the parties, Requests for Production by the parties,
4 depositions of the parties, their agents, employees, and retained expert
5 witnesses and consultants, and depositions of any witness that relate to said
6 items:
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8
9 (1) The Spokane Police Department's Internal Affairs file that relates
10 to an investigation of Spokane Police Officers' conduct during an event or
11 events that relate to factual allegations made by the plaintiff in his complaint for
12 damages; and
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14
15 (2) Personnel files of plaintiff and defendant's employees (to include
16 all employment records held by the City of Spokane regardless of designation
17 and storage location, e.g. pre-employment records, PAR/evaluations, shift
18 files, supervisor notebooks, training records, Internal Affairs records, use of
19 force logs, etc.); and
20

21
22 (3) Medical records including psychotherapy notes not normally
23 included in the patient's official record and pre-employment/employment
24 related physical and/or mental evaluations of Plaintiff; and
25

26 (4) Any other record subsequently identified as "confidential material"
27 by the court.
28

1 B. Confidential material shall hereafter be used solely by the parties
2 for the purpose of conducting this litigation and not for any other purpose
3 without order of the Court or written consent of the parties or their counsel.
4

5 C. For purpose of conducting this litigation, confidential material may
6 be used by and disclosed only to the following persons:
7

8 (1) Counsel of record for any party, and the City of Spokane City
9 Attorney's Office, and any paralegal, clerical, law clerks, legal interns and
10 secretarial employees of said counsel, who are working directly on this matter;
11

12 (2) The parties and their representatives;
13

14 (3) Any expert witness and/or consultant, who is expressly retained by
15 any attorney or party described in paragraphs (1) and (2) above, to assist in
16 the preparation of this action for trial, whether or not their testimony is to be
17 used at trial;
18

19 (4) Any person who is an author, addressee, or recipient of, or who
20 previously had access to, the Confidential material; and
21

22 (5) The Court.
23

24 D. Any person who makes disclosure of confidential material under
25 paragraph C of this Order shall advise each person to whom disclosure is
26 made concerning the terms of this Protective Order.

27 E. The persons described in subparagraphs (1) through (5) of
28

1 Paragraph C above are enjoined from disclosing confidential materials or the
2 substance thereof to any other person except in conformance with this Order
3 and the laws relating to public disclosure.
4

5 F. All Confidential documents produced via discovery shall bear the
6 legend "Confidential" in addition to an appropriate Bates-stamp designation
7 indicating the source of the document. If any document is produced non-
8 confidential rather than Confidential, the producing party may designate such
9 document as Confidential by sending a letter to counsel for each party within
10 twenty (20) days of production identifying the document or documents to be
11 designated as Confidential. Thereafter, it shall be the obligation of each party
12 in possession of such documents to take appropriate measures to ensure that
13 such documents are treated as Confidential.
14

15 G. Neither this Stipulation nor anything contained herein shall prevent
16 or prejudice the right of any party to apply to the Court for an Order striking the
17 designation of confidentiality and removing documents, writings or information
18 from the restrictions contained in this Order. Any party may apply to the Court
19 for an Order modifying this Order or imposing additional restrictions upon the
20 use of confidential material.
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22 H. Subject to further order of the Court, any confidential material
23 submitted or presented to or filed with the Court shall be filed in a sealed
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AGREED PROTECTIVE ORDER - 4

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1 envelope or other sealed container marked "Confidential" subject to Protective
2 Order, and with the name of the producing party, a statement that said
3 documents are sealed pursuant to this Order and that it is not to be opened or
4 the contents displayed or revealed except in conformity with further order of
5 the Court.
6
7

8 I. Use during trial of any confidential material or information covered
9 by this Order shall be determined by the Judge assigned to preside over trial in
10 this case and pretrial matters.
11


12 J. At the conclusion of this matter all copies of any confidential
13 materials produced by the plaintiffs shall be returned to the plaintiffs' attorney
14 and all copies of any materials produced by the defendants shall be returned
15 to the attorneys for the defendant.
16

17 K. Any disclosure beyond the above limitations shall require a written
18 agreement between the parties or their counsel, or in the event of no
19 agreement, further Order of the Court as described in Paragraph G.
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22 L. Violation of the terms of the Order may be deemed contempt of
23 court. Penalty for said contempt may include but not be limited to financial
24 terms, exclusion from evidence of the confidential material that was disclosed
25 in violation of the order, and the dismissal with prejudice of the offending
26 party's cause of action or defense, and/or any other term deemed appropriate
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28

1 by the Court.

2 DATED this 10th day of April, 2012.

3
4 
5 EDWARD F. SHEA
6 UNITED STATES DISTRICT JUDGE

7 Agreed to and presented by:

8
9 s/Rocco N. Treppiedi
10 Rocco N. Treppiedi, WSBA #9137
11 Assistant City Attorney
12 Attorney for Defendant
13 Office of the City Attorney
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16 Telephone: (509) 625-6225
17 Fax: (509) 625-6277
18 Email: rtreppiedi@spokanecity.org
19 Attorney for City of Spokane

20 Agreed to:

21 s/Susan C. Nelson
22 Susan C. Nelson, WSBA #35637
23 s/Robert A. Dunn
24 Robert A. Dunn, WSBA #12089
25 Dunn & Black
26 Banner Bank Building
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Attorneys for Plaintiff

AGREED PROTECTIVE ORDER - 6

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